IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE ACTING CHIEF JUSTICE SRI BILAL NAZKI
AND
THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO :7221 of 2003

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Dated:31st December 2007.

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Between:

The Metropolitan Criminal Courts Employees Association, Nampally, Hyderabad represented by its Secretary, A.Venkateswarly, S/o A.Ranga Rao, aged 39 years, Occ: Junior Assistant, Metropolitan Sessions Judge Court, R/o H.No.30-294/3/4/1, Santhoshima Nagar Colony, Neredmet, Secunderabad.

..... PETITIONER

AND

The Registrar (Administration), High Court of A.P., High Court Buildings, Hyderabad and others.

.....RESPONDENTS

THE HON'BLE ACTING CHIEF JUSTICE SRI BILAL NAZKI
AND
THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO :7221 of 2003

ORAL ORDER:

(Per the Hon'ble Sri Justice Nooty Ramamohana Rao)

This writ petition has been instituted by the Metropolitan Criminal Courts Employees Association seeking a declaration that the action of the 3rd respondent-Pay and Accounts Officer in returning the pay bills forwarded to him by the Metropolitan Sessions Judge, Hyderabad, fixing the pay of some of the employees working in his Unit, as bad.

The grievance nurtured is that the posts of Readers, Examiners, Copyists, Steno-typists and L.D. Clerks, which are all included in the Judicial Ministerial Service, were assigned different scales of pay in the revised scales of pay undertaken by the State Government in the years 1993 and 1998 and, consequently, they were denied the benefit of computing the combined length of service rendered in two or three of these posts for the purposes for pay fixation benefits.

The State Government, apart from periodically undertaking revision of the scales of pay of the

government servants, has also been putting in place certain incentives in the form of higher pay scales to offset the stagnation for long years in the same service. The first of these measures have been brought in by the State Government through their G.O.Ms.No.117, Finance & Planning Department, dated 25-05-1981 introducing 'Automatic Advancement Scheme' to various categories detailed therein, upon completion of 10 years or 15 years of service, as the case may be. Even though the employee does not get the benefit of promotion to a higher post, notionally he will be rendered eligible for the benefit of higher scales of pay. This Automatic Advancement Scheme has been suitably refined by the State Government through their orders contained in G.O. (P) No. 2, Finance & Planning Department, dated 04-01-1988, introducing one more tier of alleviation of stagnation upon completion of 22 years of service. This scheme has been further modified by the State Government through their subsequent orders contained in G.O. (P) No.290, Finance & Planning Department, dated 22-07-1993 read with G.O.Ms.No.362, Finance & Planning Department, dated 28-10-1994. As per the latest revised and modified Automatic Advancement Scheme, upon completion of stagnation for 8 years, Special Grade Scale of pay is assigned, upon completion of 16 years, Special Promotion Post Scale-I is assigned and upon completion of 24 years, Special Promotion Post Scale-II, is assigned. But however, for the purpose

of securing these benefits, one is required to complete 8/16/24 years in a particular scale. Therefore, the respondent-State has insisted that the scale of pay attached to the post held by the employee is the relevant factor for extending the benefit of Automatic Advancement Scheme.

It has to be noticed that under the revised pay scales on 1974, posts of Readers, Examiners, Copyists, Steno-typists and L.D.Clerks, have been assigned not a uniform scale but two different scales. While Readers and Examiners were assigned the scale of pay or Rs.240-420, the others were assigned a slightly better scale of pay of Rs.250-430. When these scales of pay have been revised in the year 1978, all the posts have earned a uniform scale of pay of Rs.425-650. Consequently, when the next revision of scales of pay was undertaken in the year 1986, they were all assigned the common scale of pay of Rs.910-1625. In the subsequent pay revisions that followed, the posts of Readers, Examiners and Copyists, have been assigned one uniform scale of pay, while the posts of Typists, Steno-typists and L.D. Clerks have been assigned a slightly higher scale of pay. Therefore, what is sought to be pointed out by the 3rd respondent is that the posts of Readers, Examiners, Copyists, Steno-typists and L.D. Clerks, are not drawing their pay and allowances in one common scale of pay, but in two different scales of pay.

Therefore, the 3rd respondent-Pay and Accounts Officer has raised the following objection on 13-08-2002:-

> " Counting the service rendered in different posts i.e., Copyists and Typists carrying the same time scale for appointment to Special Grade Post/Spl. Promotion Post is not in accordance with the Govt., orders issued in G.O.Ms.No.117, Finance & Planning Department dt.25-5-1981. The intention of the Govt., in introducing the Automatic Advancement scheme is to relieve the Stagnation in service/post rendered in a particular post but not in different posts as claimed by the Department. There are also o orders issued by the Government to count the service rendered in different posts carrying the same time scale as given in respect of Class-IV Employees. As such, Govt., orders are required for counting the service rendered in different posts for appointment to SGP/SPP."

The contention of the learned counsel for the writ petitioner is that the nature of duties performed by the aforementioned categories viz., Readers, Examiners, Copyists, Steno-typists and L.D. Clerks are almost identical and the Unit Officer, namely, the Metropolitan Sessions Judge, being aware of the same, has rightly suggested that the entire length of service rendered by the individuals either as Reader or Examiner or Copyist, before being promoted as Typist, Steno-typist or L.D. Clerk, should be given credit to for the benefit of fixation

of pay under Automatic Advancement Scheme. Further, the learned counsel would place reliance upon the orders passed by the State Government through their G.O.Ms.No.45, Finance & Planning Department, dated 15-02-1993, wherein the service rendered by Attenders, even after their promotion as Record Assistants, is allowed to be tagged on or combinedly reckoned for the purpose of extending the Automatic Advancement Scheme pay scales, and not extending similar benefit to the categories of Readers, Examiners and Copyists of the Judicial Ministerial Service, is discriminatory and bad.

It is hardly in doubt that the State enjoys the privilege of fixing the appropriate scale of pay to their servants. Unless the exercise in this regard is shown as palpably offensive of the fundamental rights guaranteed by Part-III of the Constitution, the same cannot be interdicted. If the State Government had considered it appropriate to assign uniform scales of pay to these posts of Readers, Examiners, Copyists, Steno-typists and L.D.Clerks, when they undertook the revisions during 1978 and 1986, the same is no guarantee or insulation against the future revisions. In the post-1986 revision of scales of pay, the posts of Typists and L.D. Clerks have been assigned a slightly higher scale of pay than the posts of Readers, Examiners and Copyists. That decision is not the subject matter of consideration in this writ petition. Therefore, it is evident that the Readers, Examiners and Copyists are not holding the posts, which

carry the same scale of pay as that of the L.D. Clerks or Typists, to which posts they are now, in fact, getting promoted. In such circumstances, it will be difficult to construe that for the purposes of fitment in the higher scales of pay in accordance with the Automatic Advancement Scheme, the same should be extended to the petitioners by computing the service rendered by them as Readers, Examiners or Copyists along with the service rendered by them as Typists or L.D. Clerks.

It is no doubt true that the State Government passed orders through their G.O.Ms.No.45, Finance & Planning Department, dated 15-02-1993, permitting the pay of Attenders, who are fitted into various scales of pay under the Automatic Advancement Scheme, to be extended the benefit of fixation of pay under F.R. 22 (a)(1), upon their promotion as Record Assistants. A close scrutiny of the orders of the State Government contained in G.O.Ms.No.45, dated 15-02-1993, will disclose that the normal pay scale assigned to the post of Record Assistant is less than the pay scale of Special Adhoc Promotion Post-I/Special Adhoc Promotion Post-II made available to the Attenders under the Automatic Advancement Scheme. Therefore, if an Attender, who gets stagnated for 8/16/24 years in the same grade and in the same scale, he gets the benefit of the higher pay fixation under the Automatic Advancement Scheme and if he were to be promoted later on to the next higher post of

Record Assistant, he will have to face an unjust and incongruous situation of having to work in a post, which carries lesser scale of pay than the one in which he was drawing his pay prior to such promotion. Therefore, the State Government ordered in G.O.Ms.No.45, to extend the benefit of pay fixation for such attenders on promotion as Record Assistants in terms of R.R. 22(a)(1), since, F.R. 22(a)(1) enables the pay of a government servant to be fitted at a higher slab when he gets promoted to a post carrying on higher responsibilities. That benefit is what has been extended through G.O.Ms.No.45. Unfortunately, the petitioners have mistaken the same as an order authorizing the entire length of service rendered in the category of attenders to be tagged on or computed along with the service rendered in the category of Record Assistant for the purposes of fitment under the Automatic Advancement Scheme, which is not. Hence, there is no merit in the contention canvassed against the order passed by the 3rd respondent-Pay and Accounts Officer.

But, however, the learned Metropolitan Sessions Judge has pointed out that the benefit of pay fixation in terms of F.R. 22 (a)(1) or F.R. 22(b) has also not been extended for those employees who were getting promoted as Junior Assistants/Typists/Steno-typists from the ranks of Readers, Examiners and Copyists. That is a separate issue, which we have no doubt that the 4th respondent-State Government, will appropriately seek to

redress.

We hope and trust that the State Government will bestow its attention to this question, which has been raised and pointed out by the learned Metropolitan Sessions Judge and pass orders considered appropriate within a maximum period of three months.

With this, the writ petition stands disposed of, but however, without costs.

Bilal Nazki, ACJ

Nooty Ramamohana Rao, J

31st December 2007
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